

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

R.J.V.

Case No. 3:19-cv-00704-AC

Plaintiff,

ORDER ON MOTION FOR STAY

v.

TERRANCE BEAN,

Defendant,

TERRANCE BEAN,

Counter Claimant,

v.

R.J.V.,

Counter Defendant.

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ACOSTA, Magistrate Judge:

Presently before the court is Defendant Terrance Bean's Motion to Stay this action pending resolution of a parallel criminal action filed on July 5, 2019. (ECF No. 8) On July 19, 2019,

Plaintiff R.J.V. filed a response, and on July 25, 2019, Defendant filed his Reply. The court conducted oral argument on July 31, 2019, which the court found helpful to resolution of this matter.

### *Discussion*

Defendant moves the court for a stay of this action pending resolution of *State v. Bean*, Lane County Circuit Court Case No. 19CR00847 (the “criminal matter”). Defendant has been indicted in the criminal matter involving victim M.S.G. Plaintiff’s attorneys in this action also represent M.S.G. in the criminal matter, as well as representing M.S.G. in separate civil action pending before Judge Hernandez, *M.S.G. v. Bean*, Case No. 3:19-cv-00325-HZ. Defendant contends that this court should stay this action pending resolution of the criminal matter pursuant to *Fed’l Sav. & Loan Ins. Co. v. Molinaro*, 889 F.2d 899,902 (9th Cir. 1989). Defendants indicate that the criminal matter is set for trial on November 13, 2019, and thus a stay of discovery in this case is necessary to protect Defendant’s Fifth Amendment rights. *Molinaro*, 889 F.2d at 903 (discussing case-specific factors). Additionally, Defendant argues that the remaining *Molinaro* factors weigh in favor of a stay.

Plaintiff responds that the criminal matter involves a different victim, and thus, Bean’s Fifth Amendment rights are not implicated and that a stay is unwarranted.

As the court discussed at the hearing, the court is concerned about protecting Defendant’s Fifth Amendment rights, but notes that the criminal matter could be set over, and if a criminal conviction is obtained, an appeal could further delay any discovery in this action. Conversely, this action was commenced less than three months ago, and Plaintiff waited many years to bring this action, diminishing any sense of urgency. Thus, weighing the factors set forth in *Molinaro*, the court finds that staying the case entirely until the criminal matter is resolved is unwarranted. Yet, given the Fifth Amendment concerns raised by Defendant, the court finds that some limitations on

discovery in this action are necessary. Therefore, Defendant's motion is granted in part and denied in part as follows:

All discovery is stayed in this action except as provided in this Order. The deposition of Defendant is stayed until further order of the court. Further, all third party discovery is stayed, including document requests, depositions, and subpoenas of third parties until further order of the court. Document requests may proceed under the following limited circumstances: the parties may request documents and electronic discovery, and shall be produced subject to a protective order and limited to "attorneys' eyes only." Any discovery produced in this action shall not be used in or provided for use in the criminal matter. Any objections or concerns about discovery and the scope of this Order shall be brought promptly the court's attention.

The court further cautions the parties that any violation of this order may result in a finding of contempt, with sanctions up to and including dismissal of this action with prejudice.


The court expects that any questions or concerns about whether the information produced in this action that could create conflicts of interest, potential conflicts of interest, or the appearance of the same shall be raised promptly with the court.

*Conclusion*

For the reasons stated on the record at the July 31, 2019 hearing and those stated above, Defendant's Motion to Stay (ECF No. 8) this action is GRANTED in part, and DENIED in part.

IT IS SO ORDERED.

DATED this 31<sup>st</sup> day of JULY, 2019.

  
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JOHN V. ACOSTA  
United States Magistrate Judge